THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7190 OF 1995

ORAL ORDER:

The petitioner, who claims himself to be a member of Scheduled Tribe community, joined the services of the 3rd respondent-Corporation in the year 1979 basing on the Caste Certificate dated 2.4.1974, issued by the Tahsildar, S. Kota, certifying that he belongs to Bagatha Caste. While so, the 1st respondent-District Collector appears to have addressed letters dated 27.8.1992 and 28.8.1992 to the 3rd respondent informing that the Mandal Revenue Officer, Anantagiri, on enquiry and verification of the caste claimed by the petitioner, found that the petitioner or his forefathers have never resided in Mamidivalasa village of Anantagiri mandal and that he does not belong to Bagatha Caste. Accordingly, the 3rd respondent was directed to obtain the original Caste Certificate of the petitioner to enable the 1st respondent to take further action in the matter. On the basis of the said letters, the 4th respondent issued charge-sheet dated 17.9.1992 calling upon the petitioner to explain as to why action should not be taken against him for giving false information in respect of his caste, and why disciplinary action should not be taken against him. The petitioner submitted a detailed explanation dated 20.10.1992 denying the allegations and stating that even the copies of the letters dated 27.8.1992 and 29.8.1992 were not furnished to him. However, an Enquiry Officer was appointed and a report was submitted to the 3rd respondent on 17.3.1994, on the basis of which the petitioner was directed to submit his reply. The petitioner submitted his objections on 5.8.1994 disputing the findings recorded by the Enquiry Officer and requesting to drop the disciplinary proceedings. The 3rd respondent by letter dated 6.3.1995 informed the petitioner that the report of the Enquiry Officer is accepted and further action would be taken in the matter in accordance with the provisions of the

Standing Orders. Aggrieved by the same, the present writ petition is filed contending *inter alia*, that the impugned action of the respondents 3 and 4, pursuant to the directions of the 1st respondent-District Collector, is arbitrary and illegal.

In the counter-affidavit filed on behalf of the 2nd respondent, though it was asserted that the enquiry conducted by the Mandal Revenue Officer, Anantagiri, revealed that the petitioner does not belong to Bagatha Caste, nothing has been placed before this Court to show that before arriving at such a conclusion, the petitioner was afforded any opportunity to rebut the said allegation.

In the counter-affidavit filed on behalf of respondents 3 and 4, it is stated that the impugned action has been initiated on the basis of the enquiry conducted by the 1st respondent who is the competent authority to decide the validity of the Caste Certificate.

I have heard the learned counsel for both the parties and perused the material on record.

It is to be noted that the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act") has come into force with effect from 8.9.1993. As per Section 5 of the said Act, where before or after the commencement of the Act a person had obtained a false community certificate, the District Collector is competent to enquire into the correctness of such a certificate and if it is found that such certificate was obtained fraudulently, he may cancel the certificate after giving the person concerned an opportunity of making a representation. The procedure to be followed for making such enquiry has been prescribed in detail under AP SC., ST and Backward Classes -Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 (for short "the Rules"), issued under G.O.Ms.No.58, Social Welfare (J),
dated 12.5.1997. The proviso to Section 5(1) of the Act further makes it clear that where an enquiry into the genuineness of the community certificate issued prior to the commencement of the Act has

commenced and is pending at such commencement, the record thereof shall be transferred by the concerned authority to the District Collector and he shall continue the enquiry and conclude the same under sub-section (1).

In the case on hand, the material shows that no order as such was passed by the District Collector canceling the petitioner's caste certificate or recording a finding as to the genuineness of the social status claimed by the petitioner. It is clear from the counter-affidavit filed on behalf of the 1st respondent, that 1st respondent opined that the petitioner had obtained a false community certificate, merely on the basis of the report submitted by the Mandal Revenue Officer, Ananthagiri. Since the enquiry said to have been conducted by the Mandal Revenue Officer, Ananthagiri, was without notice to the petitioner, as rightly contended by the learned counsel for the petitioner, the impugned action which is solely based on the said report is arbitrary and illegal being in violation of the principles of natural justice.

At any rate, since the enquiry into the genuineness of the community certificate issued prior to the commencement of Act 16 of 1993 is pending as on the date of the commencement of the Act, as per the proviso to Section 5(1) of the Act 16 of 1993, the enquiry shall be conducted following the procedure prescribed under the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act and the Rules made thereunder.

Accordingly, the impugned proceedings of the 1st respondent dated 27.8.1992 are set side and the writ petition is disposed of, leaving it open to the 1st respondent to take appropriate action in terms of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, and pass appropriate orders in accordance with law. Thereafter, it is open to the respondents 3 and 4 to take appropriate steps in case necessity thereof arises.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

31st October, 2006.
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7190 OF 1995

31st October, 2006.

Between:

Jakkani Raju. .. Petitioner.

And

The District Collector, Visakhapatnam
District, Visakhapatnam and others. .. Respondents.